THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT APPEAL Nos.1827, 1829, 1834, 1836, 1838, 1846, 1849, 1850 and 1856 of 2002

(Date: -06-2006)

WRIT APPEAL NO. 1827 OF 2002:

Between:

The Chairman, Coir Board, Kochi,

Kerala State and two others.

….Appellants.

And

K.Ramakrishna,

Working as Field Man,

Regional Coir Training & Development Centre,

Coir Board, Swarajyanagar,

Rajahmundry,

r/o Rajahmundry, D.G.District and two others.

… Respondent.

and 8 cases.

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COMMON JUDGMENT: (Per Hon'ble Sri Justice B. Prakash Rao)

Since common question arises in all these matters and especially in view of the fact that all these appeals arise out of a common order 22.08.2002 passed by the learned single Judge in the Writ Petitions filed by the contesting respondents/employees, they are taken up together for disposal.

The appellants-Coir Board herein are respondent Nos.1 to 3 in the writ petitions which have been allowed as against the orders of termination of the services of the writ petitioners/employees dated 28.1.2002.

Heard Smt. A.P. Lakshmi, the learned Additional Standing Counsel for Central

Government appearing on behalf of the appellants-Coir Board and Sri M.Surender Rao, the learned counsel appearing on behalf of the contesting respondents.

There is no serious dispute in regard to the facts of the case which constitute namely the contesting respondents herein, who are the writ petitioners, are the employees of the appellants-Coir Board, who have been appointed at various points of time during the period from 1984-'90. Subsequently, the services of the writ petitioners were regularized and their probation was declared. Thus, they have put in a quite length of service. However, ultimately, under the impugned orders, the appellants herein sought to terminate the services of the writ petitioners and also sought to cancel their regularization, which has been done mainly on the ground that the appellants-Coir Board is constituted only for a short period under a scheme. Having regard to the expiry of the said period of 5 years as contemplated initially, the writ petitioners have no right to seek any such relief more so when the very scheme itself is closed. Therefore, the only question as rightly pointed out by the learned single Judge is as to whether the termination of the services of all these employees/writ petitioners, who have been affected in these cases, without complying the provisions of Section 25F of the Industrial Disputes Act (for brevity 'the Act') is valid under law ?

Before going into the said questions, the twin aspects which necessarily require to be considered are as to whether the writ petitioners fall well within the definition of 'employees' and further whether the appellants-Coir Board is an 'industry'.

As regard the first question is concerned, there is no serious challenge and they do squarely fall well within the four corners of the definition of the 'workman' as

contemplated under the provisions of the Act. Coming back to the question as to whether Section 25F of the Act can be applied. It has to be seen whether the appellants-Coir Board satisfies that it does not come within the definition of 'industry' under the said legislation. In regard to interpretation of 'industry' as applicable to various Institutions, there has been chequered decisions by the Supreme Court laying down various principles in this regard. The learned single Judge having taken note of the decisions reported earlier and even though on a consideration as to the applicability of the principles already laid down in various decisions, especially in regard to the very appellants itself i.e, Coir Board, the matter was referred to a larger Bench. At the time of filing of these writ petitions, the matter was not decided. However subsequently the Apex Court has taken up the said issue and held that there is no necessity to go into any conflict as pointed out and therefore, the earlier principles would hold good. Accordingly, in ***Coir Board, Ernakulam, Kerala State vs. Indira Devi*** it was observed that:

> "The judgment delivered by seven learned Judges of this Court in Bangalore Water Supply case does not, in our opinion, require any reconsideration on a reference being made by a two judge Bench of this Court, which is bound by the judgment of the larger Bench".

Therefore, the said question no longer remains in issue and having regard to the same, it can be safely be taken that the Coir Board squarely falls well within the definition of 'Industry' and necessarily the provisions of the Act would have straight away in application. On a reading of the impugned order, it is quite clear that there is no serious dispute to the fact that the said order does not comply the requirements as contemplated under Section 25F of the Act. Certainly by the impugned action, the

appellants sought to retrench the writ petitioners and the procedure prescribed in Section 25F of the Act has not remained followed. However, while holding that the impugned orders are violative of Section 25F of the Act, the learned single Judge by taking note of the fact that having regard to the very question as to whether the appellants Board would come within the definition of 'Industry' being fought at the highest Forum, and having regard to such confusion existing, the impugned action as such would not entitle the appellants-Board to all the consequential benefits which in the normal circumstances, the respondents would be entitled to. Therefore, the learned single Judge ultimately allowed the writ petitions by setting aside the impugned orders, directing the appellants-Board to reinstate the writ petitioners into service with 50% back wages and further leaving open them to retrench the writ petitioners by duly following the provisions of Section 25F of the Act, if they so desire.

During the course of arguments, a reliance is placed on behalf of the respondents on the orders passed by the Supreme Court in Civil Appeal Nos.1720-21 of 1990, dated 4.3.2003 wherein the Apex Court leaving open the question of law to be decided as to whether the appellants-Board still fall within the 'Industry' or not to be decided in the appropriate case. We decline to interfere with the orders passed by the High Court in that case by granting the benefit under Chapter VA of the Act and in another judgment of the Gauhati High Court in W.P.No.2065 of 2002, dated 22.11.2004 has also been pressed into service wherein virtually on the self same reasons, similar such impugned action was interfered with.

Having thus considered the various submissions made across the Bar from both the

sides and in view of the principles as laid down by the Apex Court in regard to the appellants itself, it cannot be said that there is any justification on the part of the appellants in terminating the services of the respondents herein which is violative of Section 25F of the Act and therefore, the learned single Judge by taking into consideration the controversy as subsisting at the relevant point of time and especially all along has given the necessary benefit to that extent and since no appeals have been filed by the employees themselves, we are not inclined to grant any further relief in favour of the respondents/writ petitioners over and above the relief as already granted by the learned single Judge.

For the aforesaid reasons, we hold that the learned single Judge was right in holding that the impugned action on the part of the appellants in all these matters is violative of Section 25F of the Act and has rightly set aside the orders of termination dated 28.01.2002 with a relief of reinstatement of the writ petitioners with 50% back wages. Hence, we do not find any merits in the above appeals.

The Writ Appeals are dismissed. No costs.

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B. PRAKASH RAO, J

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Dr. G. YETHIRAJULU, J

June, 2006.

Chvn.